

REMARKS

Claims 1-8 and 15 remain in the case. Claims 9-13 have been cancelled previously and Claim 14 is to be cancelled herein. The amendment of Claim 1 is based on the disclosure, for example, the last two lines of paragraph [0038] on page 14 through the first four lines on page 15 of the specification. Claim 7 has been amended to remove the subject matter introduced into Claim 1 to thereby avoid duplication since Claim 7 ultimately depends from Claim 1. Therefore, entry and approval of these amendments is solicited as no new matter has been added, and the number of claims has been reduced by one.

Double Patenting

The rejection of the claims on the ground of nonstatutory obviousness-type double patenting over Claims 1-24 of U.S. Pat. No. 6,638,959 has been obviated by the enclosure herewith of a Terminal Disclaimer in compliance with 37 CFR 1.321(c).

Rejection Based on 35 USC 102(e) on Howarth U.S. 2003/0077365

Claims 1-4, 6, 8, and 15 are rejected on Howarth U.S. 2003/0077365 (“Howarth 2003”) under 35 USC 102(e). The rejection is based on the disclosure in paragraph [0052] of Howarth 2003. Howarth 2003 is a CIP of application no. 10/029,329 filed on December 21, 2001, now U.S. Pat. No. 6,908,636, (“Howarth 2003 parent”), which in turn is a CIP of now abandoned application no. 09/893,581 filed June 28, 2001, (“Howarth 2003 grandparent”). Since the present application is clearly entitled to the priority date of its parent application, 09/974,626 filed October 9, 2001, the subject matter in Howarth 2003 that is necessary to support the rejection must appear in both the Howarth 2003 parent and in the Howarth 2003 grandparent. However, no counterpart disclosure of paragraph [0052] appears in the Howarth 2003 parent nor in the Howarth 2003 grandparent. Moreover, neither the Howarth 2003 parent nor the Howarth 2003 grandparent discusses the subject of “free chlorine” which is one of the aspects of the claims of the present application. Indeed, computer searching failed to reveal even the words “free chlorine” in the Howarth 2003 parent or in the Howarth 2003 grandparent. Therefore, since U.S. Pat. No. 6,908,636 does not contain either the counterpart disclosure of paragraph [0052] of Howarth 2003 or any reference to free

chlorine, it is submitted that in the present situation Howarth 2003 is limited for reference purposes to its filing date of December 6, 2002. Consequently, the priority date of October 9, 2001 to which the present application is clearly entitled antedates the effective date of Howarth 2003. It is submitted therefore, that there is no anticipation of Claims 1-4, 6, 8, and 15, that the rejection is untenable, and that the rejection should be withdrawn.

Rejection Based on 35 USC 102(e) on WO 02/062141 A1

Claims 1-3, 6-8, and 15 are rejected under 35 USC 102(e) as being anticipated by Howarth *et.al* WO 02/062141. It is submitted that this rejection is without proper foundation. 35 USC 102(e), after referring to U.S. published applications and patents, states as follows:

* * * except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2), of such treaty in the English language; [Emphasis added]

As can be seen by inspection of the first page of WO 02/062141 A1, the designated states did not include the United States. Thus, WO 02/062141 is understood to have an effective date as a reference of August 15, 2002, the date of its publication. The parent application of the present application, *viz.* application number 09/974,626, (now U.S. Pat. No. 6,638,959 B2) was filed on October 9, 2001, and has essentially the same disclosure as the present application. Consequently, the priority date of the present application antedates the effective date of WO 02/062141 as a reference and thus WO 02/062141 is not applicable as a reference against the present application.

Conclusion

In view of the above comments, it is believed that the present application is now entitled to Allowance. Accordingly, notice to this effect is solicited and would be appreciated.

If, however, any matters remain that require further consideration, the Examiner is requested to telephone the undersigned at the number given below so that such matters may be discussed, and if possible, promptly resolved. Otherwise, please continue to address all correspondence in this Application to Mr. Edgar E. Spielman, Jr. at the address of record.

Respectfully submitted,

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